

P.R. No. 1152/05
Presented by D.P. Yadav
dated 23.07.05

CF-5A

3

IN THE HIGH COURT OF JUDICATURE AT BILASPUR(C.G.)

Second Appeal No. 238 /2005

SINGLE BENCH

APPELLANT
PLAINTIFF

Ram Avadh Ray, S/o. Shiv Ray,
Caste-Bhatt, Aged about 55
years, Village Vishrampuri,
Tahsil Cesta, District Bastar.

VERSUS

RESPONDENT
DEFENDANT

State of Chhattisgarh,
Through the Collector,
Bastar, District Jagdalpur (C.G.)

SECOND APPEAL UNDER SECTION 100 OF CCODE OF CIVIL
PROCEDURE

HIGH COURT OF CHHATTISGARH, BILASPUR**SECOND APPEAL NO.238 OF 2005****RAM AWADH****Vs.****STATE OF CHHATTISGARH**

**Present : Shri S.C. Verma, learned counsel for the
appellant.**

ORAL ORDER**(02/09/2005)**

The following order of the Court was passed by
Hon'ble Shri Sunil Kumar Sinha, J.

Shri S.C. Verma, learned counsel for the appellant.

Heard on admission.

The appellant/plaintiff has filed this Second Appeal being aggrieved by the judgment and decree dated 28/2/2005 passed in Civil Appeal No.53-A/2002 by Fourth Additional District Judge (FTC), Kanker (Chhattisgarh), arising out of judgment and decree dated 2/2/99 passed in Civil Suit No.49-A/96 by the Civil Judge Class-II, Kanker (Chhattisgarh).

The facts of the case are that the appellant/plaintiff filed a Civil Suit against the State for the relief of declaration of his title on the strength of a *Patta* issued in his favour and also for permanent injunction restraining the defendant from cancelling his *Patta*.

The case of the plaintiff is that the suit land bearing Khasra No.827//2 area 0.08 hectare was allotted to him by the Naib Tehsildar in Revenue Case No. 212/A-68/79-80. Later on, this *Patta* was cancelled by the Sub Divisional Officer vide Revenue Case No.47/A-19(5)/ 90-91 on 30/01/1992. The plaintiff filed an appeal against this

order passed by Sub Divisional Officer before the Commissioner, who also dismissed his appeal vide order dated 26/07/96 passed in Revenue Appeal No. 21/A-68/94-95. It is after all this; the Civil Suit was filed by the plaintiff for the aforesaid reliefs.

The suit was dismissed by the Trial Court on the ground that since the *Patta* of the plaintiff was cancelled by the competent authority, therefore, the plaintiff cannot be declared as the owner of the suit property neither he can claim any permanent injunction for restraining the defendant from cancelling the *Patta* by them. After dismissal of the suit by the Trial Court, the plaintiff filed an appeal before the Lower Appellate Court and the Lower Appellate Court after discussing the entire material on record ultimately held vide para 12 that the plaintiff could not establish as to how he can be declared owner of the property in question and he was entitled for any relief.

The First Appellate Court has also observed that in the present case, the plaintiff has not filed any relevant documentary evidence in support of his pleadings. He has only filed the copy of *Rin Pustika*. The plaintiff has even not filed a copy of *Patta*, a copy of order passed by the Sub Divisional Officer or the copy of order passed by the Commissioner so that it could be analysed by the Court as to why his *Patta* was cancelled by the Revenue Authorities or in alternative to analyse as to whether the *Patta* was cancelled after adopting due procedure of law or after following the fundamental principles of judicial procedure.

I have heard the learned counsel for the appellant at length and have gone through the records of the Courts below. Learned Counsel for the appellant is unable to point out any infirmity in the judgment and decree passed by the two Courts below. This appeal does not involve any substantial question of law. The same is dismissed at the motion stage itself. Consequently, MCP Nos.730/2005 and 731/2005 are also dismissed.

Sd/-
Sunil Kumar Sinha
Judge